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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/868,289	07/10/2001	Didier Arnoux	264/264	7287

21890 7590 04/20/2005

PROSKAUER ROSE LLP
PATENT DEPARTMENT
1585 BROADWAY
NEW YORK, NY 10036-8299

EXAMINER

SERGEANT, RABON A

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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041605

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

The reply filed on January 14, 2005 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicants' amendments to the claims fail to comply with the provisions of 37 CFR 1.121. See the enclosed PTOL-324. Furthermore, applicants' response to the prior art rejection set forth within paragraphs 5-7 of the prior Office action contains an ambiguous statement that must be clarified. Within page 14 of the response, applicants have stated, "It is noted that the phthalate and phosphite plasticizer aspect of this rejection has not been applied to claims 33-36, 39, 41, 43, and 49". Firstly, the reference to phosphite plasticizer is unclear, since the plasticizers are either phthalates or phosphates. Secondly, the rejection has been applied against claims 33-36, 39, 41-43, 45, and 49. If applicants are referring to the examiner's statement within lines 9 and 10 of page 4 of the Office action, then applicants have misinterpreted the Office action and must supply arguments and/or amendments to respond to the rejection of these claims. The examiner's remarks pertain only to the fact that applicants' arguments concerning "octyl" versus "2-ethylhexyl" are relevant only to rejected claims 42 and 45 and not to rejected claims 33-36, 39, 41, 43, and 49. Lastly, applicants' presumption within the last paragraph of page 14 of the response is incorrect. The wording of the rejection is as the examiner intended; the statement is correctly directed to substituting one isomeric compound for another. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).**

Any inquiry concerning this communication should be directed to R. Sergent at telephone number (571) 272-1079.

R. Sergent
April 16, 2005

Rabon Sergent
Primary Examiner
Art Unit: 1711

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

09/868,289

Examiner

Rabon Sergent

Applicant(s)

ARNOUX ET AL.

Art Unit

1711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 14 January 2005 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☐ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: See Continuation Sheet.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.


RABON SERGENT
PRIMARY EXAMINER

Continuation of 4(e): The punctuation within line 12 of claim 33 has been amended; however, the change has not been denoted by underlining. Claim 40 has been amended to recite a different R variable; however, the change has not been denoted by strikethrough or underlining, and the proper status identifier has not been used.


RABON SERGENT
PRIMARY EXAMINER